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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

RICK T. GRAY and
GRAY FARMS & CATTLE CO. LLC.

Defendants

No.: 1:21-CV-03126-TOR

DECLARATION OF TYLER
H.L. TORNABENE
UNITED STATES' MOTION
FOR ENTRY OF DEFAULT

I, Tyler H.L. Tornabene, pursuant to 28 U.S.C. § 1746 declare that:

1. I am an Assistant United States Attorney for the Eastern District of
Washington and in said capacity have been assigned responsibility for prosecuting

DECLARATION OF TORNABENE IN SUPPORT OF U.S. MOTION FOR ENTRY
OF DEFAULT - 1

1 the instant civil action. The official file relating to this action indicates that the
2 events set forth below have taken place.

3 2. On September 28, 2021, the United States' Complaint was filed with
4 the U.S. District Court for the Eastern District of Washington. (ECF No. 1).

5 3. On December 9, 2021, the Clerk of Court for the United States District
6 Court for Eastern Washington issued summonses in this cause for defendants RICK
7 T. GRAY and GRAY FARMS & CATTLE CO. LLC. (ECF Nos. 5 and 5-1).

8 4. On December 15, 2021, defendants RICK T. GRAY and GRAY
9 FARMS & CATTLE CO. LLC were personally served by Special Agent Jason
10 Gonzalez with the summonses issued in this cause and copies of the United States
11 Complaint. (ECF Nos. 6 and 7).

12 5. Based upon the date of personal service of the summonses and copies
13 of the complaint, defendant RICK T. GRAY and GRAY FARMS & CATTLE CO.
14 LLC were required to answer the United States' Complaint by January 5, 2022, that
15 day being twenty-one (21) days after service. *See* Fed. R. Civ. P. 12(a). To date, no
16 answer or responsive motion to the United States' Complaint has been received or
17 filed with the Court from either defendant, and the time allowed for doing so has
18 expired.

19 6. On January 26, 2022, the United States sent notice to defendants'
20 attorney of record in this cause, Brian J. Waid, of its intention to seek entry of default

1 against both defendants if no answer was filed within fourteen (14) days of the
2 notice. *See* Exhibit A; *see* LCivR 55(a)(1) (“Written notice of the intention to move
3 for entry of default must be provided to counsel or, if counsel is unknown, to the
4 party against whom default is sought, regardless of whether counsel or the party have
5 entered an appearance. Such notice shall be given at least 14 days prior to the filing
6 of the motion for entry of default.”). The notice of intention to seek a default was
7 sent via email and U.S. mail first class and certified, to defendants’ attorney Brian J.
8 Waid. The tracking records for the U.S. Postal Service show that the notice, which
9 was sent via certified mail, was delivered to defendants’ attorney Brian J. Waid on
10 January 31, 2022, and was signed for on that date. Exhibit A, attached hereto, is a
11 true and accurate copy of the United States’ notice, the corresponding certified mail
12 receipt, the tracking record received from the U.S. Postal Service showing the date
13 and time of delivery of the notice that was sent via certified mail, and the signature
14 showing actual receipt.

15 7. It has now been more than fourteen (14) days since the United States
16 sent its notice of intention to seek default pursuant to LCivR 55(a)(1) and defendants
17 have not filed an answer to the United States’ Complaint.

18 8. Defendants RICK T. GRAY and GRAY FARMS & CATTLE CO.
19 LLC are not infants or incompetent persons. The undersigned is also unaware of
20 any information indicating that defendant RICK T. GRAY is in the military service

1 within the purview of the Servicemembers Civil Relief Act of 2003, as amended,
2 or that he has been at any time during the pendency of this action.

3 I declare under penalty of perjury that the foregoing is true and correct to the
4 best of my knowledge.

5 EXECUTED on February 15, 2022, at Spokane, Washington.

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7 *s/Tyler H.L. Tornabene*

8 Tyler H.L. Tornabene

9 Assistant United States Attorney
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